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Easements Programs Division
USDA Natural Resources Conservation Service
PO Box 2890
Room 6819-S
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VIA web submission

Healthy Forests Reserve Program Comments

National Wildlife Federation is America's largest member-supported conservation organization. Through our national organization and in partnership with our state affiliates, the National Wildlife Federation (NWF) works to actively educate, inspire, and promote achievable solutions to everyday Americans in communities from coast to coast.

South Dakota Wildlife Federation, founded in 1945, is the state's leading voice in fishing and outdoor recreation, with 23 affiliate clubs spread throughout the state. South Dakota Wildlife Federation has been very active in agricultural policy issues, including the South Dakota USDA State Technical Committee.

North Carolina Wildlife Federation, founded in 1945, is the leading advocate for all North Carolina wildlife and its habitat. The Federation includes many affiliated wildlife and conservation entities across the state.

Wisconsin Wildlife Federation is made up of hunters, anglers, trappers and others that are actively engaged in the outdoors. Since 1949, the Wisconsin Wildlife Federation has been a strong leader in conservation through our work with conservation clubs, citizen volunteers and policy makers.

Nebraska Wildlife Federation is a statewide organization that uses environmental education, fish and wildlife conservation, and common sense public policy to promote Nebraska's wildlife and wild places.

In 2008, NWF and many of our affiliates were actively engaged in promoting strong conservation programs in the 2008 Farm Bill. NWF and some of our affiliates also serve on USDA State Technical Committees in various states.

The Healthy Forests Reserve Program funds cost-share agreements and easements to help landowners undertake projects that restore and enhance forest ecosystems to help promote the recovery of threatened and endangered species, improve biodiversity, and enhance carbon sequestration. The 2008 Farm Bill (Section 8205) made changes in the statutes governing the program.

The following are the comments of the National Wildlife Federation, South Dakota Wildlife Federation, North Carolina Wildlife Federation, Wisconsin Wildlife Federation, and Nebraska Wildlife Federation on the USDA's proposed rules to implement those statutory changes.

1. Appraisal Value of Easements

The USDA rule rejects the use of "Yellow Book" appraisal methods, which are based in part on the impact that an easement would have on the landowner's whole land holdings, rather than the impact the easement would have on the parcel put under easement. We believe the USDA rule is correct in this approach, because individual parcels of agricultural land are often sold or leased as a regular part of doing business. We know the 'Yellow Book' method has been a problem for some Wetlands Reserve Program easement values, because of the high perceived recreation value of the land post-easement that often does not translate into income for the landowner.

Instead, USDA proposes to use the Uniform Standards for Professional Appraisal Practice, under which the appraisal is based on the impact of the easement only on the easement lands. We support this approach for the Healthy Forests Reserve Program, and for the other USDA conservation easement programs. We believe it is fairer for landowners, provides the program with a larger pool of potential conservation lands, and results in a more realistic estimate of the value of the easement.

We urge USDA to use the Uniform Standards for Professional Appraisal Practice methods for valuing Healthy Forests Reserve Program easements as proposed.

2. Advice from State Technical Committees and State Fish and Wildlife Agencies

Current law (16 USC 1672) requires USDA to work with the Secretary of Commerce and Secretary of the Interior in describing forest ecosystems eligible for the program.

16 USC 1677 allows USDA to consult with, among others, "State fish and wildlife agencies" concerning the Healthy Forests Reserve Program. State fish and wildlife agencies have authority over fish and wildlife species, and share jurisdiction with the US Fish and Wildlife Service and National Marine Fisheries Service for many threatened and endangered species. Because of the important role that state fish and wildlife agencies play, we believe the rules should require that the NRCS coordinate with these agencies in implementation of the program under Section 625.3, along with the US Fish & Wildlife Service and National Marine Fisheries Service.

16 USC 1677 allowing USDA to consult with various individuals and agencies does not specifically name USDA State Technical Committees. The State Technical Committee statute

was changed in the 2008 Farm Bill (Section 2711) to add people with forestry expertise, in part because the Environmental Quality Incentives Program was expanded to include non-industrial private forest land, and the Conservation Security Program was expanded to include forested land that is an incidental part of an agricultural operation.

As we suggested in our comments on the USDA's proposed rules with respect to State Technical Committees, while they are organized principally to provide advice on programs included in the Conservation Title of the Farm Bill, we can find nothing in the statutes that *limits* the role of a State Technical Committee to those programs.

Given the addition of people with forestry expertise to State Technical Committees, we believe the rule should provide that State Conservationists confer with State Technical Committees on the Healthy Forests Reserve Program as well. That would not preclude the State Conservationist from consulting with other agencies, organizations, and individuals as needed to carry out the program, but it would provide for obtaining information from an advisory group that is already in place, and that can provide valuable advice in setting priorities and understanding appropriate easement and cost-share rates in that state.

We urge USDA to change the language to proposed Section 625.3(e) so that it reads: "The NRCS shall coordinate with FWS, NMFS, state fish and wildlife agencies, and the NRCS State Technical Committee in the implementation of the program and in establishing program policies. In carrying out this program, NRCS may confer with private forest landowners, including Indian tribes, the Forest Service and other Federal agencies, State forestry agencies, State environmental quality agencies..."

The rules should also be changed elsewhere, such as in Section 625.6 (a), to include state fish and wildlife agencies and the NRCS State Technical Committee in language referring to USDA conferring with FWS and NMFS.

At a minimum, if USDA chooses not to include the NRCS State Technical Committee as an agency *required* to be consulted, the rule in Section 625.3 should be changed to include NRCS State Technical Committees in the list of agencies and others that NRCS *may* confer with.

3. Hunting and Fishing Rights

Section 625.11(b) and 625.12(b) of the proposed rules would require that under the HFRP easement or contract the landowner grant to the NRCS "(2) The right to allow such activities by the landowner as hunting and fishing, managed timber harvest..." The authority for regulating hunting and fishing activities lies with the state fish and wildlife agencies. Those state regulations are designed to protect endangered, threatened, and rare species that are the target of this program.

We believe hunting and fishing rights should therefore be reserved rights of the landowner in any NRCS easement or contract.

We ask USDA to change Section 625.11(b) and 625.12(b) of the rules to eliminate the words “hunting and fishing,” from the list of compatible use rights to be granted to the NRCS by the landowner.

Thank you for the opportunity to provide the comments of the National Wildlife Federation, South Dakota Wildlife Federation, North Carolina Wildlife Federation, Wisconsin Wildlife Federation, and Nebraska Wildlife Federation on the Healthy Forests Reserve Program rules.

Yours in Conservation,

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